

IN THE CIRCUIT COURT FOR ANDERSON COUNTY, TENNESSEE

**JOSH AND CHRISTINA HOLDEN,
Individually and as Parents and Guardians
of their Minor Child, TIMOTHY HOLDEN
129 Chestnut Circle
La Follette, TN 37766**
Plaintiffs,

v.

No. B7LA0131
Jury Demanded

**MICHAEL KALEBIC
2805 Kings Way
Las Vegas, NV 89102**

and

**WATKINS & SHEPARD TRUCKING, INC.
N. 6400 U.S. Highway 10 W.
Missoula, MT 59808**

2017 SEP 14 PM 11:13
FILED BY CLERK OF COURT

(B)

Serve:
**CT Corporation System
3011 American Way
Missoula, MT 59808**

Defendants.

COMPLAINT

Come the Plaintiffs Josh and Christina Holden, individually and as parents and guardians of their minor child, Timothy Holden, and sue the Defendants Michael Kalebic and Watkins & Shepard Trucking, Inc., and for cause of action say:

1. Plaintiffs Josh and Christina Holden are presently citizens and residents of Campbell County, Tennessee residing at the address named in the caption. Defendant Michael Kalebic, to the best of Plaintiff's knowledge and belief, is a citizen and resident of Las Vegas, Nevada and may be served with process at the address named in the caption. Defendant Watkins & Shepard Trucking, Inc., is a foreign corporation with its principal place of business in Missoula, Montana, and can be served at the address named in the caption. This action arises out of a motor vehicle collision

EXHIBIT

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occurring in Anderson County, Tennessee on Interstate 75, on or about September 10, 2016. At the time of the accident the minor child, Timothy Holden, was a passenger in Thomas Holden's vehicle.

2. On or about September 10, 2016, the plaintiff Thomas Holden was operating his motor vehicle traveling south on Interstate 75, and had slowed for traffic. Defendant Michael Kalebic was operating a commercial vehicle, owned by Defendant Watkins & Shepard Trucking, Inc., southbound on Interstate 75 when defendant Michael Kalebic failed to slow for traffic and crashed into plaintiff Thomas Holden's vehicle. Timothy Holden, the minor child, has sustained personal injury and damages that were proximately caused by the Defendants' negligence, as set forth herein.

3. At all times herein material, the defendant Michael Kalebic was guilty of the following acts and/or omissions, which constituted negligence, which acts and/or omissions were the proximate cause of the collision:

- a. Defendant failed to maintain a proper look-out ahead;
- b. Defendant failed to maintain proper control over his tractor-trailer rig;
- c. Defendant operated his tractor-trailer rig with willful and wanton disregard for the safety of persons or property, so as to cause Defendant's tractor-trailer rig to crash into the Plaintiff's vehicle;
- d. Defendant failed to exercise due care when operating his tractor-trailer rig;
- e. Defendant was speeding or driving too fast for the conditions;
- f. Defendant failed to apply the tractor-trailer rig's brakes;
- g. Defendant failed to properly maintain the tractor-trailer rig's brakes and braking system;
- h. Defendant failed to operate the tractor-trailer rig in violation of mandatory State and Federal safety laws, statutes, regulations and ordinances, so as to constitute negligence per se;
- i. Defendant failed to use the degree of care and caution that a reasonably prudent person would have used in the same or similar circumstances;
- j. Defendant violated the Federal Motor Carrier Safety Regulations (FMCSR);

including, without limitations; failing to operate his tractor-trailer rig in a safe and reasonable manner and other FMCSR violations which constituted negligence *per se*; and

k. Defendant was following improperly.

4. At all times herein material, the defendant Michael Kalebic was guilty of violating the following sections of Tennessee Code Annotated, which violations constituted the proximate cause of said collision, and said violations constitute negligence *per se*:

- a. T.C.A. § 55-10-205, Reckless Driving, and
- b. T.C.A. § 55-8-124, Following Too Closely, and
- c. T.C.A. § 55-8-136, Drivers to Exercise Due Care, and
- d. T.C.A. § 55-8-152, Speeding.

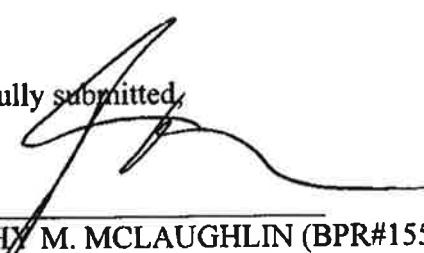
5. At all times herein material, the defendant Michael Kalebic was an employee or agent of defendant Watkins & Shepard Trucking, Inc., acting within the scope and course of his employment or agency. The above-described acts or omissions of defendant Michael Kalebic were committed within the scope of his agency and while furthering the business interests of defendant Watkins & Shepard Trucking, Inc. Defendant Watkins & Shepard Trucking, Inc. is liable for the negligent actions and omissions of defendant Michael Kalebic pursuant to the doctrine of *respondeat superior* and the rules of agency. As an employer, defendant Watkins & Shepard Trucking Inc., was also independently negligent in hiring, training, entrusting, supervising, and retaining defendant Michael Kalebic in connection with his operation of a commercial motor vehicle and for otherwise failing to act as a reasonable and prudent trucking company would under the same or similar circumstances. Defendant Watkins & Shepard Trucking Inc. was at all relevant times a motor carrier as defined by the FMCSR and was engaged in interstate commerce. As such, defendant Watkins & Shepard Trucking Inc. was at all relevant times subject to the FMCSR. As a motor carrier, defendant Watkins & Shepard Trucking Inc. has certain duties and responsibilities as defined by the FMCSR and industry standards, including the duty to properly qualify defendant

Michael Kalebic, the duty to properly train defendant Michael Kalebic, the duty to supervise Michael Kalebic, the duty to supervise the hours of service of defendant Michael Kalebic, the duty to properly inspect and maintain its' vehicles, and the duty to otherwise establish and implement necessary management controls and systems for the safe operation of its commercial motor vehicles. Defendant Watkins & Shepard Trucking Inc. was also independently negligent for failing to meet its duties and responsibilities under the FMCSR and industry standards.

6. As a result of the Defendants' negligence as set forth herein, the minor child Timothy Holden has sustained personal injury including but not limited to injury to his spine, neck, brain, and a Chiari 1 malformation. The Plaintiffs sue for damages for themselves and their minor child Timothy Holden, including but not limited to past and future medical expenses, medical treatment, loss of enjoyment of life, past and future pain and suffering, and loss of consortium damages which resulted from Timothy Holden's injuries sustained.

WHEREFORE, plaintiffs Josh and Christina Holden, for themselves and their minor child Timothy Holden, sue the defendants Michael Kalebic and Watkins & Shepard Trucking Inc. for such damages as to be determined, not to exceed **Two Million Dollars (\$2,000,000.00)**.

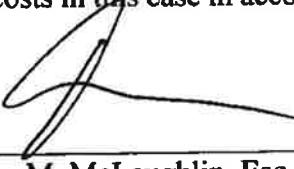
Respectfully submitted,



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COST BOND

We acknowledge ourselves as surety for all costs in this case in accordance with T.C.A.
§20-12-120.



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